

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CR 20-1370 KWR

JULIAN LUCAS GARCIA, III,

Defendant,

**ORDER GRANTING CONTINUANCE OF TRIAL
AND PRETRIAL DEADLINES**

THIS MATTER is before the Court on Defendant's Second Unopposed Motion to Continue Trial and Motion to Extend Time to File Motions, filed September 8, 2020 (Doc. 27). The Court having considered the motion and having considered the holding in *United States v. Toombs*, 574 F.3d 1262 (10th Cir. 2009), finds that the Defendant has by his motion, created a sufficient record to justify granting the motion to continue. See id., 574 F.3d at 1271 (requiring that the record on a motion to continue contain an explanation of why the mere occurrence of the event identified by the party as necessitating the continuance results in the need for additional time). Additionally, the Court finds that further, pursuant to the relevant factors under 18 U.S.C. §3161(h)(7)(B)(i-iv), the government has informed undersigned counsel that it intends to supersede the current pending indictment, also, the government recently issued two subpoenas for records, one directed to an auto insurance company and the other to a medical provider. The government has informed undersigned counsel that said discovery will be provided to Mr. Garcia and undersigned counsel later this week. Undersigned counsel requests additional time to review these documents and the impact if any that the anticipated superseding indictment and additional discovery may have on ongoing plea negotiations, and justify the continuance. Therefore, all the

time from the filing of the motion until the beginning of jury selection in this matter shall be excluded for the purposes of the Speedy Trial Act.

IT IS THEREFORE ORDERED that the Jury Selection/Trial of October 13, 2020 is VACATED. Call of the Calendar is reset for **December 10, 2020, at 9:00 a.m.** and Jury Selection/Trial is reset for **December 14, 2020, at 9:00 a.m.**, on a trailing docket at the United States Courthouse, 333 Lomas Blvd., NW, Bonito Courtroom, before Judge Kea W. Riggs in Albuquerque, New Mexico.

IT IS FURTHER ORDERED that the substantive motion deadline is hereby extended until **November 9, 2020.**

IT IS FURTHER ORDERED that, so as to conserve judicial resources, any motion to continue trial must be filed no later than **November 30, 2020.**

IT IS FURTHER ORDERED that pursuant to 18 U.S.C. §3161(h)(7)(A), the Court finds that the ends of justice served by granting the unopposed motion for continuance outweigh the best interest of the public and the defendant in a speedy trial.

IT IS FINALLY ORDERED that counsel shall adhere to the instructions and case management deadlines as set forth in the following attachment, "Preparation for Criminal Trial" (includes guidelines for preparation of proposed jury instructions, JERS Informational Letter, and JERS Attorney Guide).



KEA W. RIGGS
United States District Judge

**PLEASE REFER TO THE FOLLOWING
ATTACHMENTS FOR ADDITIONAL DEADLINES AND INFORMATION:**

“Preparation for Criminal Trial” (includes guidelines for preparation of proposed jury instructions, JERS Informational Letter, and JERS Attorney Guide).

OTHER INSTRUCTIONS/MOTION TO CONTINUE TRIAL DEADLINE:

Motions for continuance in criminal cases must be filed in accordance with 18 U.S.C. § 3161(h)(7)(A), specifically setting forth the factual grounds justifying the continuance under the statute. In cases involving multiple defendants, counsel must file a joint motion for continuance with all counsel approving said motion. MOTIONS TO CONTINUE MUST COMPLY WITH THE SPECIFIC REQUIREMENTS SET FORTH IN *UNITED STATES V. TOOMBS*, 574 F.3D 1262 (10TH CIR. 2009). THE MOTION “MUST CONTAIN AN EXPLANATION OF WHY THE MERE OCCURRENCE OF THE EVENT IDENTIFIED BY THE PARTY AS NECESSITATING THE CONTINUANCE RESULTS IN THE NEED FOR ADDITIONAL TIME.” *ID.* AT 1271. MOTIONS CONTAINING SHORT, CONCLUSORY STATEMENTS REGARDING THE REASON A CONTINUANCE IS REQUESTED ARE INSUFFICIENT UNDER *TOOMBS* AND WILL BE SUMMARILY DENIED BY THE COURT.

TRAILING TRIAL DOCKET:

Counsel are referred to the trailing docket of cases as they appear for jury/selection trial on the Public Court Calendar for December, 2020. The order in which cases appear on the Court Calendar does not necessarily reflect the order in which cases will be tried.